

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 1059 of 2015 (O&M)
Date of decision: 26.5.2016

The State of Haryana and others

.. Appellants

v.

Pawan Kumar

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Ankur Mittal, Addl. Advocate General, Haryana.
Mr. Sushil Jain, Advocate for the respondent.

...

Rajesh Bindal J.

Challenge in the present intra-court appeal is to the judgment of the learned Single Judge, whereby the writ petition filed by the respondent was allowed. He was directed to be offered appointment, having been selected, after he was acquitted in the criminal case registered against him.

The learned Single Judge, while placing reliance upon a judgment of Hon'ble the Supreme Court in Joginder Singh v. Union Territory of Chandigarh and others, 2015(1) SCT 87 and finding that the prosecution in the case in hand had failed to prove the case against the respondent and his acquittal being honourable held that he could not be denied the benefit of his selection and deserved to be appointed.

The facts in the matter considered by Hon'ble the Supreme Court in Joginder Singh's case (supra) were similar, wherein finding that acquittal of the accused, who was selected for government service was

honourable, the court opined that he cannot be deprived from being appointed to the post in public employment. The relevant paras thereof are extracted below:

“16. However, adverting to the criminal proceeding initiated against the appellant, we would first like to point out that the complainant did not support the case of the prosecution as he failed to identify the assailants and further admitted that the contents of the Section 161 of Cr. P. C. statement were not disclosed to him and his signatures were obtained on a blank sheet of paper by the Investigation Officer. Further, Sajjan Singh, who was an eye-witness of the case, who was also injured, had failed to identify the assailants. Both the witnesses were declared hostile on the request of the prosecution. The learned Additional Sessions Judge, Bhiwani held that the prosecution has not been able to prove in any way the allegations against the appellant. Thus, the learned Judge held that the prosecution had miserably failed to prove the charges levelled against the appellant in the criminal proceedings. Therefore, we are in agreement with the findings and judgment of the learned Additional Sessions Judge and are of the opinion that the acquittal of the accused from the criminal case was an honourable acquittal. Learned counsel has rightly placed reliance upon the decision of this court in Deputy Inspector General of Police and another v. S. Samuthiram, 2013(1) SCT 115: (2013) 1 SCC 598, which relevant para is extracted as under:

“24. The meaning of the expression “honourable acquittal” came up for consideration before this court in **RBI v. Bhopal Singh Panchal**. In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions “honourable acquittal”, “acquitted of blame”, “fully exonerated” are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression “honourably acquitted”. When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.”

[Emphasis supplied]

17. Further, an acquittal of the appellant is an “honourable” acquittal in every sense and purpose. Therefore, the appellant should not be deprived from being appointed to the post, in the public employment, by declaring him as unsuitable to the post even though he was honourably acquitted in the criminal case registered against him.”

The aforesaid judgment was followed by a Division Bench of this Court in LPA No. 228 of 2015—Central Industrial Security Force and another v. Yogesh Kumar, decided on 21.7.2015, whereby the judgment of the learned Single Judge directing appointment of a selected candidate, who was honourably acquitted of a charge in a criminal case, was upheld. The same view was expressed by a Division Bench of this Court in CWP No. 3532 of 2013—Union Territory, Chandigarh and others v. Pardeep Kumar and others, decided on 24.2.2016 and LPA No. 222 of 2015—Ranbir Singh v. State of Haryana and others, decided on 24.5.2016.

For the reasons mentioned above, we do not find any reason to interfere with the judgment of the learned Single Judge. The appeal is, accordingly, dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

26.5.2016
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